

## REMARKS

This amendment is submitted in response to the non-final Office Action mailed on March 8, 2005. Claims 1-18 are pending in this application. In the Office Action, the specification is objected to, Claims 1, 4 and 8 are objected to, Claims 1-9, 11-14 and 16-18 are rejected under 35 U.S.C. §102 and Claims 10 and 15 are rejected under 35 U.S.C. §103. In response Claims 1, 4, 6, 8 and 16 have been amended, and Claim 3 has been canceled. These amendments do not add new matter. In view of the amendments and/or for the response set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, the specification and Claims 1, 4 and 8 are objected to. In response, the specification and Claims 1, 4 and 8 have been amended to address the informalities cited by the Patent Office. Accordingly, Applicants respectfully request that the objections to the specification and Claims 1, 4 and 8 be withdrawn.

In the Office Action, Claims 1-9, 11-14 and 16-18 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,897,599 to Fond (“*Fond*”). Applicants respectfully disagree with and traverse these rejections for at least the reasons set forth below.

Applicants have amended independent Claim 1 to include, in part, a sealed cartridge comprising first and second sheet materials and a beverage-forming substance for preparing a beverage located in the space between the sheets, with the first material designed to admit water into the cartridge for extraction of the beverage from the beverage-forming substance, and the second material having properties to retain the water or beverage in the cartridge until an overpressure of 0.1 to 3 bar is achieved, at which overpressure the second material will rupture under the sole effect of the rise in pressure inside the cartridge to allow the extracted beverage to exit the cartridge and wherein the first sheet material is selected from the group consisting of paper, a non-woven fiber, prescored plastic material and combinations thereof. The amendments as discussed above are fully supported in the specification, for example, at page 2, lines 1- 13.

*Fond* is deficient with respect to the present claims. For example, *Fond* only teaches a closed cartridge with a bottom foil or cover that contacts and tears against projections of the holder of the machine. When the pressure reaches a value of between 2 to 15 bars, the cover is pressed against the projections and it reaches its breaking stress and forms a plurality of openings. See, *Fond*, Claim 1 and column 7, lines 10-25. Consequently, the lower face of the

cartridge is not designed to break under the sole effect of the inside pressure that builds up in the cartridge. However, the present claims provide a simpler cartridge that opens by the internal pressure effect of the fluid and not by any external opening means. For the reasons discussed above, Applicants respectfully submit that Claim 1 and Claims 2-9, 11-14 and 16-18 that depend from Claim 1 are novel, nonobvious and distinguishable from the cited reference.

Accordingly, Applicants respectfully request that the rejection of Claims 1-9, 11-14 and 16-18 under 35 U.S.C. §102(b) be withdrawn.

Claims 10 and 15 are rejected under 35 U.S.C. §103 as being unpatentable over *Fond* in view of U.S. Patent No. 4,253,385 to Illy ("*Illy*"). Applicants respectfully submit that the patentability of Claim 1 renders moot the obviousness rejections of Claims 10 and 15. In this regard, the cited art fails to teach or suggest the elements of Claims 10 and 15 in combination with the novel elements of Claim 1.

For example, *Illy* fails to disclose or suggest a lower face having a resistance to at least 0.1 bar of overpressure. In *Illy*, the cartridge has two sheets of filters, which are both permeable to water. See, *Illy*, column 2, lines 3-5. The system in *Illy* requires no great pressure to overcome the backpressure of the ground coffee and filter. There is also no retarded beverage delivery function as in the present invention. Instead, in the present invention, the bottom layer can be, for example, a filter, a non-woven fiber or prescored plastic sheet that resists a pressure of at least 0.1 bar until the beverage can flow there through thus creating a retarded effect. This effect enhances the contact between the ground product and water and is beneficial for the extraction quality of the beverage.

Accordingly, Applicants respectfully request that the obviousness rejections with respect to Claims 10 and 15 be reconsidered and the rejections be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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